

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of:)	
)	
Amendments To Harmonize and Streamline)	
Part 20 of the Commission's Rules Concerning)	WT Docket No. 16-240
Requirements for Licensees To Overcome a)	
CMRS Presumption)	
)	

**REPLY COMMENTS OF
THE NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these reply comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹ The Notice of Proposed Rulemaking seeks input on proposed changes to the Part 20 rules regarding regulatory classifications. The proposed rule changes would eliminate disparities between certain rules and in so doing would help simplify the process for private mobile radio service (PMRS) use of spectrum originally targeted for commercial mobile radio service (CMRS). As addressed in these comments, NPSTC supports the proposed rule changes as doing so would be beneficial to state and local agencies that seek to obtain spectrum on the secondary market to supplement available public safety channels.

¹ Notice of Proposed Rulemaking, Amendments To Harmonize and Streamline Part 20 of the Commission's Rules Concerning Requirements for Licensees To Overcome a CMRS Presumption, WT Docket No. 16-240, released July 28, 2016.

The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementation of the Public Safety Wireless Advisory Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety telecommunications, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety telecommunications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 16 organizations serve on NPSTC's Governing Board:

- American Association of State Highway and Transportation Officials
- American Radio Relay League
- Association of Fish and Wildlife Agencies
- Association of Public-Safety Communications Officials-International
- Forestry Conservation Communications Association
- International Association of Chiefs of Police
- International Association of Emergency Managers
- International Association of Fire Chiefs
- International Municipal Signal Association
- National Association of State Chief Information Officers
- National Association of State Emergency Medical Services Officials
- National Association of State Foresters
- National Association of State Technology Directors
- National Council of Statewide Interoperability Coordinators
- National Emergency Number Association
- National Sheriffs' Association

Several federal agencies are liaison members of NPSTC. These include the Department of Homeland Security (the Federal Emergency Management Agency, the Office of Emergency Communications, the Office for Interoperability and Compatibility, and the SAFECOM Program); Department of Commerce (National Telecommunications and Information Administration); Department of the Interior; and the Department of Justice (National Institute of Justice, Communications Technology Program). Also, Public Safety Europe is a liaison member. NPSTC has relationships with associate members: The Canadian Interoperability Technology Interest Group (CITIG) and the Utilities Technology Council (UTC), and affiliate members: The Alliance for Telecommunications Industry Solutions (ATIS), Open Mobile Alliance (OMA), Telecommunications Industry Association (TIA), TETRA Critical Communications Association (TCCA), and Project 25 Technology Interest Group (PTIG).

NPSTC Reply Comments

Section 20.9 of the Commission's rules currently contains a presumption that all applicants and licensees in the services identified in that section intend to license their facilities as commercial mobile radio service (CMRS) operations. The Notice of Proposed Rulemaking (NPRM) in this proceeding details 13 categories of services listed under Section 20.9 (a) of the rules to which this CMRS presumption applies. The categories of services included span multiple spectrum bands and various parts of the rules, including some services under Part 22, Part 80, Part 90, Part 95, etc.

Subsequent to the adoption of this overarching presumption of CMRS in Section 20.9 of the rules in 1994, the Commission has provided greater flexibility for an applicant to specify operation other than CMRS under other individual service-specific rule parts. For example, in 2004 the Commission revised its Part 22 rules to provide an applicant the option to specify that it intends to

provide PMRS service on spectrum originally allocated for commercial paging or radiotelephone operations. However, an applicant still must request a waiver of the section 20.9 CMRS presumption to take advantage of the flexibility allowed under the service-specific rules in Part 22.

While the Commission routinely grants such waiver requests, the requirement for a waiver lengthens the application processing time and unnecessarily delays use of the spectrum. These delays can negatively impact both public safety and business/industrial use of spectrum. As the Commission recognizes in the NPRM:

There has been increased use of licenses in a number of the wireless services listed in section 20.9 for internal and private mobile radio service operations, such as by state and local governments using paging frequencies in support of their public safety operations, by licensees providing service only to a particular entity such as a hospital or school, or by commercial businesses seeking to use the spectrum for their own internal operations.²

The Commission also notes in the NPRM there is an increasing demand for PMRS use of spectrum that section 20.9 does not encourage.³

The first round comments filed in this proceeding all support the Commission's proposal to eliminate the CMRS presumption contained in Section 20.9 of the rules.⁴ NPSTC joins these parties in supporting the Commission's proposed elimination of the CMRS presumption. Doing so will help reduce an unnecessary regulatory burden local and state agencies currently face when applying to license spectrum obtained on the secondary market to supplement the available public safety channels. In turn, such applications will be less costly to develop and Commission processing can move at a faster pace when a waiver is not required.

² NPRM at paragraph 6.

³ NPRM at paragraph 15.

⁴ See comments submitted by the Enterprise Wireless Alliance (EWA), CTIA, the Government Wireless Technology and Communications Association (GWTCA) and Motorola Solutions, Inc.

The NPRM also addresses possible streamlining of other Part 20 rules that relate to definitions, characteristics and/or obligations of CMRS. As part of that discussion, the Commission notes that another licensee would have the ability to challenge an applicant's selection of PMRS or CMRS. The Commission also notes that it has the authority to take enforcement action against a licensee that intentionally tries to avoid CMRS regulation by misrepresenting how its service will be operated.⁵

In making any additional modification to the rules beyond eliminating the CMRS presumption, NPSTC urges the Commission to ensure that sufficient clarity in the definition of, and requirements for, PMRS and CMRS classifications are maintained. When licensees have clarity on rule requirements, the need for the Commission to initiate enforcement action may be reduced. Such clarity also is important so that any legitimate licensee challenges have the potential to be well grounded. In addition, clarity in these areas should assist the Commission in more quickly dismissing any frivolous challenges filed primarily to delay another entities' application.

Conclusion

NPSTC joins the first round commenters in supporting the Commission's proposal to eliminate the CMRS presumption contained in Section 20.9 of the rules. Doing so will help simplify the application process for local and state agencies that seek to obtain spectrum on the secondary market to supplement available public safety channels. NPSTC also recommends the Commission maintain clarity in the rules regarding the definition of, and requirements for, CMRS vs. PMRS so that applicants have clear guidance on choosing regulatory classifications.

⁵ NPRM at paragraph 23.

Paul R. Patrick, Vice Chairman

A handwritten signature in dark ink, appearing to read "Paul R. Patrick". The signature is stylized with large, rounded letters and a prominent "P" and "R".

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